UNITED NATIONS CONVENTION
ON THE LAW OF THE SEA

SPLOS

MEETING OF
STATES PARTIES

Distr.
GENERAL

SPLOS/WP.3/Rev.1
10 April 1996

ORIGINAL: ENGLISH

MEETING OF STATES PARTIES
Fourth meeting
New York, 4-8 March 1996

REVISED BUDGET ESTIMATES FOR THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA COVERING THE PERIOD 1996-1997

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I. INTRODUCTION

1. The International Tribunal for the Law of the Sea (hereinafter "the Tribunal") was created by the 1982 United Nations Convention on the Law of the Sea (hereinafter "the Convention"). The Statute of the Tribunal (annex VI to the Convention) sets out its composition, the mandate and the manner in which it will function. It is a body of 21 elected Members (judges) and is served by a Registry. The Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea was charged with making the necessary arrangements for the commencement of the functions of the Tribunal. This was dealt with by Special Commission 4, 1/ which, inter alia, prepared a report containing recommendations regarding practical arrangements for the establishment of the Tribunal. That report was submitted to the Meeting of States Parties to the Convention 2/ by the Preparatory Commission.

II. CONSIDERATION OF ADMINISTRATIVE AND BUDGETARY REQUIREMENTS BY THE MEETINGS OF STATES PARTIES

2. The second Meeting of States Parties, held in New York from 15 to 19 May 1995, considered administrative and budgetary requirements of the Tribunal. It agreed on the approach to be followed concerning the establishment of the Tribunal, its initial functions and related matters. 3/

3. The approach and assumptions relevant to preparing the draft budget were discussed in some detail, 4/ emphasizing that the principle of cost-effectiveness would apply to all aspects of the work of the Tribunal. On that basis, the Meeting requested and the Secretariat prepared a draft budget of the Tribunal for the initial period, from 1 August 1996 to 31 December 1997 (SPLOS/WP.1).

4. Pursuant to its earlier decisions, the draft budget was reviewed and revised by the Meeting of States Parties, with the participation of financial experts of States, at its third Meeting (New York, 27 November-1 December 1995). The record of that Meeting (document SPLOS/5) reflects that review. The budgetary estimates presented herein incorporate the results of that review and also the conclusions and implications arising therefrom. The proposed staffing structures and related costs were closely scrutinized and substantially trimmed. Reductions were made in the estimates for recurrent and non-recurrent expenditures. The overall estimates were strictly limited.

5. The estimates resulting from the above revision, together with the applicable criteria, were presented to the current Meeting of States Parties for adoption.

III. WORK PROGRAMME OF THE TRIBUNAL DURING THE INITIAL PERIOD

6. The organizational arrangements for the Tribunal during its preliminary organizational phase of the Tribunal's activities were set out in paragraphs 6 and 7 of document SPLOS/WP.1.

7. In reviewing the administrative arrangements and structure and staffing of the Registry, the third Meeting of States Parties decided that for budgetary purposes the initial period from 1 August 1996 to 31 December 1997 would constitute a single phase at the end of which, in January 1998, the Tribunal would enter the first functional phase. The Meeting assumed that the required level of staff and services to fulfil the needs of the first functional phase that follows in 1998 and the appropriate arrangements would be determined in due time by the Tribunal and its Registry, for the approval of the Meeting of States Parties. It is assumed that in the first functional phase, an appropriate structure for the Registry would be required. 5/

A. Judiciary

8. During the preliminary organizational phase, which is anticipated to span 15 months from when all 21 Members first convene, they would organize their work, elect officials from among themselves, make the necessary administrative arrangements and appoint an Acting Registrar. The Members would later also have to adopt the Rules of the Tribunal, formulate the terms and conditions of service for the officials and staff of the Registry, organize the procedures and arrangements, including those for dealing with cases and internal procedures, for budget, accounts, administration, personnel, etc., elect a Registrar and appoint a deputy.

B. Registry

9. The Registry, as the administrative organ, is required to: (a) provide legal, procedural, administrative, linguistic and any technical support; (b) be responsible for the financial and accounting administration; (c) also be responsible for documentation, archiving and library services; (d) carry out personnel management and administration; and (e) provide for all purchasing, storage and other general services. The organization of the Registry and the appointment of staff are to be approved by the Tribunal on the recommendation of the Registrar.

10. Initially a small nucleus of staff would service the meetings of the Members and organize the Registry. Pending the establishment of terms, conditions and other arrangements and the adoption of administrative and financial rules, an Acting Registrar would be charged with carrying out those functions.

11. During the organizational phase the Registry would have to carry out its internal administrative organization and recruitment, while giving effect to the personnel, budgetary and accounting arrangements that are adopted.

12. One of the areas of internal organization, as emphasized by both the Preparatory Commission and the General Assembly, 6/ would be the establishment of the library of the Tribunal and making it operational. No budgetary provision has been made for this purpose.

IV. ADMINISTRATIVE EXPENSES OF THE TRIBUNAL: CRITERIA APPLIED

A. Members of the Tribunal and their remuneration

13. Consistent with the determination of the Meeting of States Parties, 7/ the overall remuneration of the Members of the Tribunal will consist of three elements: an annual allowance, a special allowance for each day that they are engaged on the business of the Tribunal, and a subsistence allowance for each day that they are required to be present at the seat of the Tribunal. The overall remuneration of the Members of the Tribunal would not exceed the level of remuneration of a Judge of the International Court of Justice.

14. The remuneration of the Judges of the International Court of Justice, as determined by the General Assembly, is reflected in document A/C.5/48/66. They receive a net salary of $145,000 per annum, which is the comparator and the basis for the estimates presented herein.

15. In these estimates, following the criteria established in the deliberations, taking into account the level of remuneration of the Members of the Tribunal on the basis of equivalencies with remuneration levels of the Judges of the International Court of Justice as well as the requirements of the Statute, the annual allowance would be one third of the net salary of the comparator (approximately $48,300). The Members of the Tribunal will receive a special allowance, computed only for periods when they are actively engaged on the business of the Tribunal. The maximum special allowance for any calendar year would also be one third of the net salary of the comparator (approximately $48,300). 8/ Their remuneration, other than annual and special allowances, is dependent upon duration of engagement on the business of the Tribunal away from their country of residence and presence at the seat of the Tribunal.

16. As regards subsistence allowance payable for each day that a Member is present at the seat of the Tribunal, consistent with the earlier estimates and deliberations, where presence at the seat of the Tribunal is required for a prolonged period, the maximum subsistence allowance would be for 250 working days in any calendar year. For the purposes of the present estimates, the current level of daily subsistence allowance for Hamburg under United Nations practice has been used. 9/ The maximum amount of subsistence allowance for any calendar year would therefore also be computed at approximately $48,300 on the basis of one third of the net salary of the comparator.

17. Based on these criteria, using the comparator would result in maintaining equivalence with the remuneration levels of Judges of the International Court of Justice.

18. During the initial period, August 1996-December 1997, the 20 Members of the Tribunal, other than the President, would not be required to reside at the seat of the Tribunal. 10/ They would thus receive the annual allowance, the special allowance for each day that they are engaged on the business of the Tribunal and a subsistence allowance for each day that they are in attendance at the seat of the Tribunal. The President of the Tribunal will reside at the seat of the Tribunal and would be entitled to an annual overall remuneration of $145,000.

In addition, he will receive a special annual allowance, 11/ which for the purpose of these estimates is $15,000.

19. The Members of the Tribunal will meet for up to 12 weeks during the initial period, August 1996-December 1997. 12/ Thus, other than the President of the Tribunal, each of the 20 Members of the Tribunal would receive the special allowance for up to 12 weeks as well as a subsistence allowance for up to 12 weeks during the period.

20. The present estimates provide for up to 12 weeks of preparatory work by Members of the Tribunal.

B. Staff of the Registry and their remuneration

21. The third Meeting of States Parties reviewed the earlier proposals and concluded that in the development of the Registry the initial period between August 1996 and December 1997 could be considered to represent an organizational phase leading towards the first functional phase. It will commence with a small nucleus of staff to service the executive sessions of the Members and to serve to organize and carry out the functions of the Registry. The number and level of the staff at that stage as well as the indicative designation of functions, as proposed by the Meeting of States Parties, are presented in annexes I and II to the present document. Following the election of the Registrar, the post would be encumbered at the level of Assistant Secretary-General, while the D-1 level post would be eliminated. No adjustment in the estimates would be required.

22. Some flexibility has been reflected in the definition of functions and utilization of posts that are required. For the same reason, multivalent staff having expertise in different areas may be preferable to staff with defined and limited specialities.

23. Since the demands of creating a new institution are not predictable, the Meeting of States Parties has also made some limited provision for contingencies which would allow for the engagement of temporary staff. This appropriation would be utilized as the needs dictate. However, if any applications or cases are to be taken up for consideration, deliberations or hearings during the initial budget period (1996-1997), the financial implications of court proceedings would have to be estimated separately and appropriate budgetary arrangements would be required. For this purpose and in order to respond to any emergency situation, the President of the Tribunal and/or the Registrar could request States Parties to convene a Meeting of States Parties.

24. In these estimates, it is assumed that the staff of the Registry would be remunerated according to the practice of the United Nations common system of organizations. 13/

C. Transitional arrangements

25. To provide for the transition from the services of the Secretariat of the United Nations, consistent with the decision contained in paragraph 11 of General Assembly resolution 49/28 of 6 December 1994, the Secretary-General is requested to assign an officer to take charge of the Registry, against the post and budget of the Tribunal, pending the election of the Registrar by the Tribunal.

26. Furthermore, during the initial period, the Secretary-General is also requested to provide continuity of services from 1 August 1996. He may assign or second staff from the United Nations Secretariat as may be required by the interim Registry of the Tribunal for this purpose. He may assign staff for up to one year against posts approved in the initial budget of the Tribunal. The interim Registry may recruit staff against the budget and posts of the Tribunal on a short-term basis and administer the staff so recruited.

27. The staff would serve on an interim basis and the Staff Regulations and Rules of the United Nations would be applied mutatis mutandis to all staff and the processing of entitlements would also be done under the same Staff Regulations and Rules, pending the adoption of administrative and staff rules by the Tribunal.

D. Other items of recurrent expenditure

28. The Meeting of States Parties also reviewed estimates of other items of recurrent expenditure as well as items of non-recurrent expenditure as presented in document SPLOS/WP.1/Rev.1, annex. Such objects of expenditure include temporary assistance for meetings, general temporary assistance and official travel of staff. Communications requirements are special, particularly to serve the Members, whether at the seat or at other locations. 14/

E. Non-recurrent expenditures

29. Estimates of non-recurrent expenditures as reviewed including those pertaining to office equipment and furniture, data-processing equipment, transportation equipment, etc.

F. Preparatory work

30. The Meeting of States Parties reviewed the needs of a preparatory nature in the earlier drafts of the budget (see SPLOS/WP.1, paras. 26 and 34, and SPLOS/WP.1/Rev.1, para. 44). The post requirements for the period from April to July 1996 were set out in those documents.

31. The related costs estimated at $191,500, composed of staff costs ($156,000) and costs of preparatory missions ($35,500), are reflected in annex III to the present document, section C, start-up costs (preparatory work: April-July 1996).

G. Estimates

32. The estimates for the administrative expenses of the Tribunal for the period from 1 August 1996 to 1 December 1997, including the costs for the period from April to July 1996, as reviewed and revised by the Meeting of States Parties, are presented in annex III, as follows: (a) recurrent expenditures; (b) non-recurrent expenditures; (c) start-up costs (preparatory work: April-July 1996); and (d) contingencies.

V. FUNDING OF THE BUDGET FOR THE INITIAL PERIOD AND ASSESSED CONTRIBUTIONS

33. The Convention states that the expenses of the Tribunal shall be borne by the States Parties and the International Seabed Authority and also by other users of the Tribunal, which includes States that are not States Parties. 15/

34. A scheme for apportionment among States Parties was approved based on the scale of assessments for the United Nations regular budget and a provisional scale of assessments. States Parties would make contributions in accordance therewith. States that become Parties to the Convention thereafter would contribute to the initial budget of the Tribunal in accordance with the provisional scale adjusted to include the new States Parties.

35. The decisions taken by the fourth Meeting of States Parties on budgetary matters are contained in document SPLOS/L.1. 16/

Notes

1/ The documentation of Special Commission 4 is contained in LOS/PCN/152, vols. I-IV.

2/ See para. 10 of resolution I of the Third United Nations Conference on the Law of the Sea. The Meeting of States Parties for election of the Members (judges) of the Tribunal is to be convened in accordance with annex VI, article 4, paragraph 4, of the Convention.

3/ See SPLOS/4, in particular, part III, A-C.

4/ Ibid., paras. 25-29.

5/ Such structure was presented in document SPLOS/WP.1, paras. 12 and 25.

6/ LOS/PCN/L.115/Rev.1, para. 43 (d); General Assembly resolution 49/28, para. 11.

7/ SPLOS/4, para. 25 (a) (iv).

8/ According to annex VI, article 18 (1) of the Convention, in any year the total sum payable to any Member of the Tribunal as special allowance shall not exceed the amount of the annual allowance. The special allowance would be

paid to a Member on a pro rata basis for those weeks that he/she is engaged in the business of the Tribunal.

9/ Approximately $219 for the first 60 days and approximately $164 thereafter (see ICSC/CIRC/DSA/240, p. 15).

10/ SPLOS/4, para. 25 (a) (iii).

11/ Convention, annex VI, article 18 (2).

12/ SPLOS/4, para. 25 (a) (ii).

13/ See also LOS/PCN/142, para. 25 and SPLOS/WP.1, para. 27. Information relating to the application of the practice is provided in the notes to the table in SPLOS/WP.1.

14/ The need for facsimile services, access to networks and legal databases as used in an international court is noted. Document SPLOS/4 indicates the need for preparatory work by the Members, which also has implications for communications requirements (see SPLOS/WP.1, para. 28). These needs also have a bearing on the acquisition of computer-related equipment, identified under "non-recurrent expenditures".

15/ Convention, annex VI, article 19.

16/ The decisions were taken on the basis of the draft budget contained in document SPLOS/WP.3, as approved in document SPLOS/WP.3/Rev.1. The draft decisions on budgetary matters contained in document SPLOS/CRP.6 were revised and adopted as reflected in document SPLOS/L.1.

Annex I

POST REQUIREMENTS OF THE REGISTRY (TABLE)

ASG (Acting D-2)	D-2 (Acting D-1)	P-5	P-4	P-3	P-2/1	Total Professional and above	General Service (Principal level)	General Service (Other levels)	Total General Service	Grand total
1	1	1	1	1	2	7	3	11	14	21

Annex II

DESIGNATIONS AND STAFFING LEVELS OF THE REGISTRY
DURING THE INITIAL PERIOD (LIST)

EXPLANATORY NOTE

Staffing for initial period August 1996-March 1997

Professional and above

1	D-2	Registrar (Acting)
1	D-1	Principal Legal Secretary/Deputy Registrar (Acting)
1	P-5	Head, Administration and General Services (Executive Officer)
1	P-4	Head, Linguistics Services (English/French), Translation and Interpretation
1	P-3	Head, Documents Section/Library/Archives
1	P-2	Associate Secretary (Legal)
1	P-2	Budget/Accounts/Computer Systems Officer

7 Professionals

General Service level

1	Secretary to President
1	Secretary to Registrar (Acting)
1	Secretary to Principal Legal Secretary/Deputy Registrar
1	Administrative Assistant
1	Personnel Clerk
1	Finance Clerk
1	Procurement/Transport Assistant
3	Secretaries to Judges/Word Processor pool (for reports, documentation, etc.)
2	Word Processors (Linguistic services, English-French)
2	Security Officers (part-time Drivers/messengers)

14 General Service

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Annex III

ADMINISTRATIVE EXPENSES OF THE TRIBUNAL DURING THE INITIAL PERIOD 1996-1997 (PRELIMINARY ESTIMATES)

(In thousands of United States dollars)

Object of expenditure	
A. Recurrent expenditures	
Established posts	2 050.0
Temporary assistance for meetings	116.9
General temporary assistance	107.0
Overtime	24.5
Common staff costs	63.0
Representation allowance	3.1
Official travel	150.0
External printing and binding	37.8
Annual and special allowances of Members	2 452.6
Maintenance of premises	143.4
Rental and maintenance of equipment	141.4
Communications	53.9
Hospitality	4.2
Miscellaneous services	2.9
Supplies and materials	46.6
B. Non-recurrent expenditures	
Furniture and equipment	173.0
Total	5 570.3
C. Start-up (April-July 1996)	
As per SPLOS/WP.1, para. 34	191.5
Subtotal	5 761.8
D. Contingency	
Temporary staff	409.1
(On authorization by the President or by the officer in charge of the Registry pending the election of the President)	
Grand total	6 170.9